

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Supplemental Nutritional Assistance Program (SNAP)
Iraqi, Afghani Immigrant—Qualified Alien
(LAC 67: III 1223, 1931, 1932, 1934, 1995, 1999)

The Department of Social Services (DSS), Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend the Louisiana Administrative Code (LAC), LAC 67:III, Subpart 2, Chapter 12, Subchapter B, and Subpart 3, Chapter 19, Subchapters D, K, and M. This emergency rule is effective May 10, 2010, upon the signature of the DSS Secretary and shall remain in effect for a period of 120 days.

Pursuant to P.L.111-118, the agency must render to Iraqi and Afghani Special Immigrant Visas (SIVs) the eligibility for federal public benefits to the same extent and for the same time period as refugees.

LAC 67:III, Subpart 2, Section 1223 and Subpart 3, Section 1931 are being amended to include as a qualified alien an Iraqi or Afghani immigrant who has been granted SIV status per a directive from Food and Nutrition Services (FNS) regarding the Supplemental Nutrition Assistance Program (SNAP).

LAC 67:III, Subpart 3, Section 1932 is being repealed to remove the time limitations for certain aliens and Section 1934, Alien Eligibility Criteria, is being added to define alien eligibility criteria and include an Iraqi or Afghani immigrant who has been granted SIV status per a directive from FNS and the Department of Agriculture, Food and Nutrition Services, 7 CFR Part 273 Food Stamp Program: Eligibility and Certification Provisions of the Farm and Rural Investment Act of 2002; Final Rule, Section 273.4.

In accordance with an FNS directive, LAC 67:III, Subpart 3, Section 1995 is being amended to include an indigent alien as an exception to the sponsored alien rule.

LAC 67:III, Subpart 3, Section 1999, is being amended to remove the requirement to send a Notice of Adverse Action when mail is returned from the Post Office as undeliverable per an FNS directive regarding Simplified Reporting (SR) requirements.

Emergency action in this matter is necessary as failure to promulgate the rule in a timely manner could result in the imposition of sanctions or penalties by the United States Department of Agriculture (USDA), Food and Nutrition Service, the governing authority of the Supplemental Nutrition Assistance Program (formerly known as the Food Stamp Program) in Louisiana.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1223. Citizenship

A. – A.10. ...

11. An Iraqi or Afghan immigrant who has been granted Special Immigrant Visa (SIV) status.

B. – B.8. ...

AUTHORITY NOTE: Promulgated in accordance with P. L. 111-118, section 8120).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), amended LR 26:1342 (June 2000), LR 27:2263 (December 2001), amended LR 28:1599 (July 2002), LR 32:1911 (October 2006), LR 36:

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Supplemental Nutrition Assistance Program

Chapter 19. Certification of Eligible Households

Subchapter D. Citizenship and Alien Status

§1931. Qualified Aliens

A. – A.10. ...

11. An Iraqi or Afghan immigrant who has been granted Special Immigrant Visa (SIV) status.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 104-208, P.L. 105-33, P.L. 105-185, and P.L. 106-386.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 25:710 (April 1999), LR 28:1600 (July 2002), LR 36:

§1932. Time Limitations for Certain Aliens

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P. L. 104-193, P. L. 105-33, P. L. 105-185, and P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:711(April 1999), LR 28:1600 (July 2002), LR 29:606 (April 2003), LR 30:493 (March 2004), LR 36:

§1934. Alien Eligibility Criteria

A. The following qualified aliens are eligible for benefits:

1. refugees admitted under §207 of the Immigration and Nationality Act (INA);

2. asylees admitted under §208 of the INA; and

3. an alien whose deportation is withheld under §243(h) of such ACT (as in effect immediately before effective date [April 1, 1997] of §307 of division C of P.L. 104-208) or §241(b)(3) of such Act (as amended by Section 305(a) of Division C of P.L. 104-208);

4. *Cuban* and *Haitian* entrants as defined in §501(e) of the Refugee Education Assistance Act of 1980;

5. *Amerasian* immigrants admitted pursuant to §584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 as contained in §101(e) of P.L. 100-202 and amended by the 9th provision under migration and refugee assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, P.L. 100-461, as amended;

6. an alien who is the victim of a severe form of trafficking in persons.

7. veterans who have met the minimum active-duty service requirements of Section 5303 A(d) of Title 38, United States Code, who were honorably discharged for reasons other than alienage and their spouses or unremarried surviving spouses, if the marriage fulfills the requirements of Section 1304 of Title 38, United States Code, and unmarried dependent children;

8. active-duty personnel (other than active duty for training) and their spouses, or unremarried surviving spouses, if the marriage fulfills the requirements of Section

1304 of Title 38, United States Code, and unmarried dependent children;

9. aliens who have worked 40 qualifying quarters of coverage under Title II of the Social Security Act or can be credited with such qualifying quarters;

10. effective October 1, 2002, individuals who are lawfully residing in the United States and are receiving benefits or assistance for blindness or disability as defined in §3(r) of the Food Stamp Act of 1997;

11. individuals who were lawfully residing in the United States on August 22, 1996 and were 65 years of age or older;

12. effective October 1, 2003, individuals who are lawfully residing in the United States and are under 18 years of age;

13. effective April 1, 2003, individuals who have been lawful, permanent residents or otherwise qualified aliens for at least five years beginning on the date the immigrant was designated as a qualified alien by the Immigration and Naturalization Service.

14. an Iraqi or Afghani immigrant who has been granted Special Immigrant VISA (SIV) status.

AUTHORITY NOTE: Promulgated in accordance with P. L. 104-193, P. L. 105-33, P. L. 105-185, P.L. 107-171, and P.L. 111-118.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 36:

Subchapter K. Action on Household with Special Circumstances

§1995. Sponsored Aliens

A. The full amount of income and resources of an alien's sponsor and the sponsor's spouse are counted in determining the eligibility and allotment level of a sponsored alien until the alien becomes a citizen or has worked 40 qualifying quarters of Social Security coverage. These provisions do not apply to battered aliens, their children, the alien parent of a battered child, or effective October 1, 2003, any alien under 18 years of age, an indigent alien that the State agency has determined is unable to obtain food and shelter, taking into account the alien's own income plus, any cash, food, housing, or other assistance provided by other individuals, including the sponsor(s).

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.11, P.L. 104-193, P. L. 104-208, P. L. 105-33, P. L. 107-171, and 7CFR 273.4(c)(3)(iv).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), LR 24:355 (February 1998), LR 30:493 (March 2004), LR 36:

Subchapter M. Notice of Adverse Action

§1999. Reduction or Termination of Benefits

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the household at the time of action in the following situations:

1. The agency disqualifies a household member because of an intentional program violation and the benefits of the remaining household members are reduced or ended because of the disqualification;

2. Benefits are reduced or terminated at the end of the certification period when the client timely reapplies;

3. The client has been certified in another state and that fact has been established;

4. The client signs a statement requesting closure or reduction in benefits and waives the right to advance notice;

5. Benefits are reduced or terminated effective the month following the semi-annual report month as a result of changes reported through the semi-annual reporting process;

6. The agency receives a written report signed by the head of the household or other responsible household member which provides sufficient information for the agency to determine the household's benefit amount or ineligibility;

7. Mass changes;

8. Based on reliable information, the agency determines that the household has moved or will be moving out of the state prior to the next monthly issuance;

9. The household applied for cash assistance and food stamps at the same time and has been getting food stamps while waiting for approval of the cash assistance grant;

10. The client was a certified resident in a drug or alcohol treatment center or a group living arrangement which loses its state certification or FNS disqualifies it as a retailer;

11. A household certified under expedited processing rules provides postponed verification which reduces or terminates benefits.

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 7 CFR 273.12(a)(1)(vii)

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:324 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 24:108 (January 1998), LR 32: 2270 (December 2006), LR 36:

Kristy Nichols
Secretary

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